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Co. v. *Mottley,* 219 U. S. 467; *Stephens* v. *Central Ry. Co.,* 138 Ga. 625, 75 S. E. 1041, 42 L. R. A. (N. S.) 541.

It is also settled, however, that where a state has fixed a reasonable maximum rate, it cannot compel railroad companies to sell mileage or penny scrip books at a less rate, as this would be an unjustifiable interference with their freedom of contract. *Lake Shore Ry. Co.* v. *Smith,* 173 U. S. 684; *Com.* v. *A. C. L. Ry. Co.,* 106 Va. 61, 55 S. E. 572, 117 Am. St. Rep. 983, 7 L. R. A. (N. S.) 1086. It is also established that by purchasing a reduced rate ticket, when an opportunity is given to purchase an ordinary ticket, the passenger enters into and is bound by a contract with the carrier different from that implied by law upon the purchase of an ordinary ticket at the regular rate of fare. *Bitterman* v. *Railway Co.,* 207 U. S. 205; *Mason* v. *Railroad,* 159 N. C. 183, 75 S. E. 25. Where the carrier has authority to issue mileage books, and such authority is unaccompanied by any restrictions as to the manner of using, the carrier may attach any conditions to the sale of such mileage books as it sees fit. *Eschner* v. *Penn. Ry. Co.,* 18 I. C. C. 60. Nevertheless it would seem that the state in the exercise of its police power could impose reasonable regulations as to the manner of using mileage or penny scrip books. *L. & N. Ry. Co.* v. *Mottley, supra; Stephens* v. *Central Ry. Co., supra.*

CARRIERS—INJURY TO PULLMAN PORTER—CONTRACT LIMITATION OF LIABILITY.—A porter on a palace car, employed under a contract exempting the Pullman Company and the railroad company from liability for injuries received while in the former's service, was killed in a collision. *Held,* the porter is not a passenger in the ordinary sense of the word but an action will lie for his death through the negligence of the railroad company. *Coleman* v. *Pennsylvania R. Co.* (Pa.), 89 Atl. 87.

It is settled that a common carrier of passengers cannot limit its liability for its own or its servants' negligence in respect to passengers who pay the regular fare, nor, by the weight of authority, are such stipulations against liability made valid by granting a reduced fare. *Pittsburg, etc., Ry. Co.,* 165 Ind. 694, 76 N. E. 299, 4 L. R. A. (N. S.) 1081. The courts are in conflict as to the right to limit liability to passengers riding on free passes. In favor of the right, see *Shelton* v. *Canadian N. Ry. Co.,* 189 Fed. 153; *Griswold* v. *N. Y. R. Co.,* 53 Conn. 371, 4 Atl. 261, 55 Am. Rep. 115; *Gill* v. *Erie R. Co.,* 151 App. Div. 131, 135 N. Y. Supp. 355; *Rogers* v. *Kennebec Steamboat Co.,* 86 Me. 261, 29 Atl. 1069, 25 L. R. A. 491; 14 HARV. LAW REV. 147. *Contra, Farmers' Loan & Trust Co.* v. *B. & O. S. W. Ry. Co.,* 102 Fed. 17; *Sullivan-Sanford Lumber Co.* v. *Watson* (Tex.), 135 S. W. 635; *Huckstys* v. *St. L. & H. Ry. Co.,* 166 Mo. App. 330, 148 S. W. 988; and in Virginia by statute, *Norfolk & W. Ry. Co.* v. *Tanner,* 100 Va. 379, 41 S. E. 721. The courts of all of the states but one in which the question has arisen hold that railroads cannot limit their liability for injuries to drovers travelling on free passes while accompanying shipments. *Kirkendall* v. *Union Pac. R. Co.,* 200 Fed. 197; *Sprigg's Admr.* v. *Rutland R. Co.,* 77 Vt. 347, 60 Atl. 143. *Contra, Hodge* v. *Rusland R. Co.,* 112 App. Div. 142, 97 N. Y. Supp. 1107.

The Supreme Court of the United States has held that railroads are not required to be common carriers of other common carriers. *The Express Cases,* 117 U. S. 1. On this ground contracts limiting liability to express messengers have been held valid. *B. & O. Ry. Co.* v. *Voight,* 176 U. S. 498; *Perry* v. *Phila. B. & W. R. Co.* (Del.), 77 Atl. 725. *Contra,* 10 HARV. LAW REV. 310. In the absence of any contract, however, courts have classed express messengers with passengers and required the same degree of care from the railroad company. *Blair* v. *Erie R. Co.,* 66 N. Y. 313, 23 Am. Rep. 55; *Missouri, K. & T. Ry. Co.* v. *Blalack* (Tex.), 147 S. W. 559. An excellent middle ground was taken in one case, where, while holding the contract void, the court required the same duty of the railroad company as it owes to its own employees. *C. & N. W. Ry. Co.* v. *O'Brien,* 132 Fed. 593. Postal clerks have been placed almost uniformly in the role of passengers. This seems to be the proper rule since no contract exempting railroad companies from liability is required and the government pays their fare. *Seybolt* v. *N. Y. L. E. & W. R. Co.,* 95 N. Y. 562, 47 Am. Rep. 75; *Southern Ry. Co.* v. *Harrington,* 166 Ala. 630, 52 So. 57; *Norfolk & W. R. Co.* v. *Shoot,* 92 Va. 34, 22 S. E. 811. *Contra, Foreman* v. *Pa. R. Co.,* 195 Pa. St. 499, 46 Atl. 109. A railroad company transporting a circus is not liable as a common carrier and may validly stipulate for exemption from liability. *Sager* v. *Northern P. Ry. Co.,* 166 Fed. 526; *Kelly* v. *Grand Trunk W. Ry. Co.,* 46 Ind. App. 697, 93 N. E. 616.

The weight of authority is against the decision in the principal case, and from analogy with the cases cited above, the rule that a contract limiting liability is valid seems to be correct. *McDermon* v. *Southern Pac. Co.,* 122 Fed. 669; *Denver & R. G. R. Co.* v. *Whan,* 39 Colo. 230, 89 Pac. 39, 11 L. R. A. (N. S.) 432; *Russell* v. *Pittsburg, etc., Ry. Co.,* 157 Ind. 305, 61 N. E. 678, 87 Am. St. Rep. 214, 55 L. R. A. 253; *Chicago, etc., Ry. Co.* v. *Hamler,* 215 Ill. 525, 74 N. E. 705, 106 Am. St. Rep. 187, 1 L. R. A. (N. S.) 674. In all of the cases the same contract was in issue and though the majority of the courts decided for its validity, a few have held it void and allowed recovery. *Jones* v. *St. Louis S. R. Co.,* 125 Mo. 666, 28 S. W. 883, 26 L. R. A. 718.

CONSTITUTIONAL LAW—COMMERCE—STATE TAX FOR DOING LOCAL BUSINESS.—Massachusetts taxed the plaintiffs, foreign corporations engaged in both interstate and intrastate business, under a statute providing that "Every foreign corporation shall, in each year, at the time of filing its annual certificate of condition, pay to the treasurer and receiver-general, for the use of the commonwealth, an excise tax, of one-fiftieth of one per cent of the par value of its authorized capital stock as stated in its annual certificate of condition; but the amount of such excise tax shall not in any one year exceed the sum of $2,000." The plaintiffs attacked the statute as being an interference with interstate commerce and hence unconstitutional. *Held,* the statute is constitutional, as the local and domestic business, for the privilege of doing which the state had imposed a tax, was real and substantial, and not so connected with interstate commerce as to render a tax upon it a burden upon the